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32. Linguistic rights and wrongs  
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**Applied Linguistics** 16:4, 1995, 483-504

## HUMAN RIGHTS IN THE CAUSE OF LINGUISTIC JUSTICE

This article seeks to clarify the contours, scope and potential of the concept linguistic human rights. It considers to what extent language rights are well protected in existing supranational human rights covenants, at the "universal" and "European" levels, and in an example of recent state legislation aimed at empowering an indigenous people. It considers why the issue of linguistic human rights (LHRs) should be of concern to applied linguistics, and argues for the formulation and ratification of a Universal Declaration of Linguistic Human Rights.

The struggle for linguistic rights represents an attempt to harness fundamental principles and practices from the field of human rights to the task of rectifying some linguistic wrongs and granting to less favoured languages some of the support that is the rule for dominant languages.

Our starting-point is that it is axiomatic that

- **linguistic rights are one type of human right** and as such one intricately interlocking element in a set of inalienable, universal norms for just enjoyment of one's civil, political, economic, social and cultural rights;
- **depriving people of their human rights leads to conflict**. If the rights of minorities are respected, there is less likelihood of conflict. Linguistic diversity is not causally related to conflict, though of course language is a major mobilising factor in contexts where an ethnic group feels itself threatened.

Efforts are currently under way to codify language rights at the **inter-state level**, both global (UN bodies such as the ILO) and regional (e.g. European, African). Some documents are applicable to all (a "Universal" declaration/covenant), some are restricted to specified groups which are in need of particular support (e.g. children, migrant workers or indigenous peoples). They have in common the principle that agreement at inter-state level is normative and may hopefully lead to better practice at state level. The **state** can determine policies and enact laws on language use in the public sphere, in education, the legal system and public administration. In a democratic society the achievement of principles and practices which meet human rights standards is an ongoing struggle between competing interests. One of the goals of human rights work, both at the inter-state level and within any state, is to provide support to those involved in attempting to oblige the state to respect human rights.

The extreme form of deprivation of linguistic rights is linguisticicide ("glottophagie"/linguistic cannibalism, Calvet 1974, Brenzinger 1992, Skutnabb-Kangas & Phillipson in press). A more appropriate metaphor than language death, which seems to imply natural causes for the demise of a language, might be language murder, since it has frequently been a conscious policy of the dominant group to eliminate minority languages. Linguistic wrongs occur when languages are marginalized and deprived of resources or recognition, when language shift is imposed on individuals

and groups. There is abundant documentation of the major role played by education systems worldwide in this process, the underlying policy being to assimilate linguistic minority groups to the dominant language and culture (see, for instance, many of the contributions to Skutnabb-Kangas & Cummins 1988).

Linguistic rights are one dimension of minority rights, which in turn form part of the overall complex of human rights that has evolved in recent decades in an attempt to protect individuals and groups against inhumane treatment. The nature of these rights in international law is extremely complex and changes over time, reflecting developments in the philosophical and political underpinning of efforts to clarify universal standards, and the practical constraints on their implementation (Thornberry 1991, de Varennes 1994, 1995a, b). Human rights have a pedigree going back several centuries, to the transition from absolutism to more democratic structures in Western societies. The treaties signed at the conclusion of the 1914-1918 war attempted to ensure recognition of the rights of many minority groups in central and eastern Europe. Since 1945, a substantial effort has gone into codifying and extending "universal" declarations.

The primary goal of all declarations of human rights is to protect the **individual** against arbitrary, unjust or degrading treatment. Human rights declarations have progressed through various phases: the first generation related to personal freedoms, civil and political rights (extended in the decolonization phase from the rights of individuals to the right of oppressed peoples to self-determination, a rather fuzzy concept in international law which is currently being reassessed, see Clark and Williamson in press); the second generation related to social, economic and cultural rights; and the third generation covers 'solidarity' rights (peace, development, an unspoiled environment). Clauses proscribing discrimination on grounds of language, along with gender, religion and "race", have been present throughout these phases.

Until recently, rights have been conceptualized and formulated as the property of the individual, but there is increasing recognition that this has not prevented violation of the rights of minority groups, and that **collective** and individual rights are in fact two sides of the same coin. Rights pertaining to the use of a given language are an eminent example of the way in which the rights of the individual presuppose their social and collective exercise.

In parallel with efforts to codify and ensure ratification of global or regional human rights covenants, there is at the nation state level a substantial amount of experience of the enactment and implementation of linguistic rights. Language rights in the period 1850-1940 in Europe are studied comparatively in Vilfan (ed.) 1993. On recent experience in granting language rights, see Giordan 1992, Nelde, Labrie & Williams 1992, and the contributions to Skutnabb-Kangas & Phillipson 1994a on the United States, the Soviet Union and Estonia, New Zealand, Norway, Australia, India, Quebec, and Latin America, as well as for documentation of how Kurds, Kashmiris and many other groups are deprived of linguistic human rights. The article by Akinnaso (1994) on linguistic unification and language rights in Nigeria is an excellent portrayal of the complexity of the issues in a typical post-colonial state. Fernand de Varennes' book **Language, Minorities and Human Rights** (1995) is one of the most thorough treatises of the issue. See also Capotorti 1979, Eide 1994 and Eide et al 1995.

The fact that it has been Western governments setting the human rights agenda merely reflects the fact that such states dominate the United Nations, and in no way indicates that principles of human rights are an exclusively Western phenomenon. In the human rights literature there is a lively debate on the universalism or cultural relativism of human rights (see, e.g., An-naim & Deng 1990). The second UN World Conference on Human Rights, held in Vienna in 1993, revealed how governments conceptualize human rights in a variety of ways, though the concluding document was in fact approved unanimously.

Human rights currently figure prominently on several major international political agendas. There is a tendency for aid from the West to post-communist and post-colonial states to be made conditional on vaguely defined principles of human rights as props for the cause of democracy and the "free" market.

This has been IMF and World Bank policy in Africa, but clearly fundamental political, social and economic change cannot be introduced overnight, whether imposed externally or espoused internally (Tomaševski 1993). Language policy and minority policy seldom figure prominently in aid programmes, which is consonant with language policy having a low priority generally in post-colonial African states (Bamgbose 1991). Broadly speaking, aid policies in education have involved support for the learning of the former colonial languages rather than indigenous languages, and this has consolidated the interests of elites and their external partners (Brock-Utne 1993; on language rights in

postcolonial Africa, see Phillipson and Skutnabb-Kangas 1994, which draws on the work of many African scholars; for a recent survey of language policy in Africa and the central role of national languages, see Djité 1993; for Latin America, see Hamel 1994, von Gleich 1994).

When former communist states apply for admission to the Council of Europe, they are required to prove that they follow policies that respect human rights. This is supposed to be a precondition for membership of the European club. Ironically a higher standard of minority protection is required, at least in theory, of Eastern European states than exists in many member states. In the field of linguistic rights, good practice is often associated with such states as Switzerland, Finland and Belgium. Detailed study of the strengths and weaknesses of the language laws in each of these, and in Canada, shows that in practice there are many constraints on the enjoyment of language rights, who they apply to, where and when, and invariably a tension between conflict and compromise (McRae 1983, 1986, Phillipson, Rannut & Skutnabb-Kangas 1994, Bulletin of the Canadian Centre for Linguistic Rights, Faculty of Law, University of Ottawa).

Russia has accused the Baltic states of depriving the Russian-speaking minorities in these states of their LHRs, and delayed evacuating their troops on this pretext, but successive investigative missions (by representatives of such bodies as the UN and the CSCE, the Conference on Security and Cooperation in Europe) have revealed that there are no gross violations of human rights, and have attempted to ensure a dialogue between the parties (Rannut 1994). In fact the Russian-speaking minority, which until the collapse of communism formed the dominant group, exercises more LHRs than national minorities in many Western European states and certainly more than any immigrated minorities, as they have the right to education through the medium of their mother tongue, and the right to use it in courts and local administration (see Rannut & Rannut 1995).

An extreme case of a member state of the Council of Europe with an explicitly linguicidal policy is Turkey, which proscribes use of the Kurdish language (Skutnabb-Kangas & Bucak 1994, **Silence is killing them** 1994). Recent cosmetic constitutional changes have done nothing to attenuate this policy, which is part of an alternately assimilationist and genocidal policy vis-a-vis the Kurds. The Kurds are a clear example of a people who are suffering violent human rights abuses, and for whom language rights are central to their survival as a people.

That the human rights of minorities need protection is obvious in our turbulent and violent contemporary world. Supranational organizations such as the UN, the CSCE and the Council of Europe are increasingly addressing the issue, in the hope that the cause of peace and justice will be advanced by identifying what rights should be respected and by working for their adoption (Eide 1993, Miall 1994, Minority Rights Group 1994).

Rights presuppose duties, generally on the part of the state. Litigation may be an important means of enforcing one's legal rights, initially at the appropriate local level of court, and ultimately either at the national level such as the US Supreme Court, or at the supranational level such as the European Court of Human Rights (Skutnabb-Kangas & Phillipson 1994b, 85-89). Litigation has been used much more on the North American continent than in Europe to clarify the interpretation of these rights (see de Varennes 1994, 1995a, b; see also Bhat 1993 for an excellent comparison of language rights, including litigation, in Canada and India).

## **APPLIED LINGUISTICS AND LHRs**

For applied linguists, who play an important role in the constitution, legitimation and reproduction of the hierarchies of language that exist intranationally and internationally, the challenge is to clarify whether the policies that we are professionally involved in elaborating and implementing meet universal standards for LHRs. There is clearly a language policy dimension in work in curriculum development, bilingual education, the Deaf Community, speech impairment, and the learning of foreign languages for such purposes as "international understanding". The languages that are accorded prominence in syllabuses and examinations are typically dominant languages. They are referred to as "national", "official" or "international" languages, such ascriptions revealing something of the extralinguistic purposes that the languages in question serve. As applied linguists we should therefore be concerned with whether our activities conform to principles of fundamental human rights.

Professional associations are increasingly aware of the significance of language rights. TESOL's mission (President's message, TESOL Matters, June/July 1993) "is to strengthen the effective teaching and learning of English around

the world while respecting individuals' language rights." FIPLV, the Fédération Internationale des Professeurs de Langues Vivantes/World Federation of Modern Language Associations, is campaigning for the adoption of a Universal Charter of Basic Human Language Rights, including the learning of foreign languages as a fundamental human right (Batley et al 1993, 40-44; for a critical dissection of this argument see Skutnabb-Kangas & Phillipson 1994b, 100-103; rejecting the notion that foreign language learning is a linguistic human right does not mean that the content of foreign language teaching cannot include increasing human rights awareness, as recommended in, for instance, the "Global Issues in Language Education" Network's Newsletter 14, March 1994).

Language policy issues are not confined to matters of the rights of minority language speakers, autochthonous and immigrant, within a state, even if "human rights in general exist for the weak, the vulnerable, the dispossessed, the inarticulate... minorities are the natural 'consumers' of human rights" (Thornberry 1991, 385). "International" languages serve a multiplicity of purposes within individual states and impinge on domestic linguistic hierarchies. It is possible that we are witnessing, in tandem with an increased recognition of minority language rights, the emergence at the "European" and global levels of a diglossia in which "international" languages (English is the most obvious case) are used for high-prestige purposes, while the local language is progressively confined to the domestic, private sphere. This pattern is well established in post-colonial contexts (Mateene 1985), and applied linguists have been a vital link in the chain securing Western influence in the education systems of such countries (Phillipson 1992). A similar scenario may be unfolding in Europe, with the possibility that "small" European languages such as Danish or Estonian become marginalized in a diglossic division of labour, as the European Union and other supra-statal organizations advance. Some governments and national language boards manifestly appreciate that there is a threat to their languages, most notably those of France (see, for instance, the annual reports of the Haut Conseil de la Francophonie on the position of French worldwide, and reports of ad hoc conferences organized by this body), Iceland (e.g. Kristinsson 1994) and Norway (e.g. Norsk språkråd 1995). Other governments have not seen cause to ring linguistic alarm bells.

If one is concerned about the reality or risk of linguistic dominance of this kind, it is essential to analyse the academic and political discourse legitimating choice of particular languages for internal purposes (e.g. national unity, modernisation, technological advance) and for external purposes (e.g. trade, geopolitical links, continental "integration", "international understanding") and to identify the interests served by particular languages (see Phillipson 1992, chapter 9, Phillipson & Skutnabb-Kangas 1994b, in press, Harlech-Jones, in press). The status accorded to "international" languages may well have a bearing on whether LHRs are being respected. Unlike language policy documents dealing with the rights of all languages in a multilingual society, including indigenous and immigrant languages (see Lo Bianco 1990 on the Australian experience), in the more restricted area of national **foreign** language policy, most documents do not draw on a human rights perspective - see, for instance, Brecht & Walton 1993 on the United States, and the papers in Lambert 1994, in which the experience of Australia, the Netherlands, and the Council of Europe is summarized. International languages as such do not figure in human rights conventions, and will not be given further consideration here.

LHRs can, drawing on Phillipson, Rannut & Skutnabb-Kangas 1994, be summarized as follows. Observing LHRs implies at an **individual** level that everyone can identify positively with their mother tongue(s), and have that identification respected by others, irrespective of whether their mother tongue is a minority language or a majority language. It means the right to learn the mother tongue(s), including at least basic education through the medium of the mother tongue, and the right to use it in many (official) contexts. It means the right to learn at least one of the official languages in one's country of residence. It should therefore be normal that teachers of minority children are bilingual. Restrictions on these rights may be considered linguistic wrongs, an infringement of fundamental LHRs.

Observing LHRs implies at a **collective** level the right of minority groups to exist, i.e. the right to be "different" (Hettne 1987, Miles 1989, Stavenhagen 1988, 1991, Thornberry 1991). It implies the right of minorities to use and develop their language and to establish and maintain schools and other training and educational institutions, with control over the curriculum, and with teaching through the medium of their own languages. It also involves guarantees of representation in the political affairs of the state, and the granting of autonomy to administer matters internal to the groups, at least in the fields of culture, education, religion, information, and social affairs, with the financial means, through taxation or grants, to fulfil these functions (see UN Human Rights Fact Sheet 18, Minority Rights, Alfredsson 1991, and Leontiev 1994). Rights should be enforceable, which presupposes financial resources, and appropriate democratic, constitutional and legal procedures. Restrictions on these rights may also be considered linguistic wrongs, an infringement of fundamental LHRs.

This enumeration of LHRs builds on principles that should be observed when forming language policy in any state. They represent a norm, a standard that states should aspire to, which can be a significant reference point in struggles to influence language policy and wrest rights from an unwilling state. A human rights approach in language education involves the fostering of attitudes - at the local, national and supranational levels - and the elaboration and maintenance of a structure within which the individual and the group do not suffer from oppression, specifically linguistic oppression. If the proclamations of professional associations such as FIPLV and TESOL are to be anything more than pious rhetoric or partisan lobbying by professional interest groups, the rights in question need to be specified and publicised so that individuals and groups know what they are. Applied linguists, particularly those associated with organizations that purport to be global, hence addressing the issue of the language learning needs of all the world's citizens, are therefore confronted with a considerable challenge in clarifying the nature and scope of linguistic human rights.

## LANGUAGE RIGHTS IN SELECTED COVENANTS AND CONSTITUTIONS

Our study of a range of relevant international covenants and national constitutions (Skutnabb-Kangas & Phillipson 1989, 1994), drawing on distinctions made by Kloss (1971, 1977) and Cobarrubias (1983), has attempted to gauge to what extent these legal measures provide support for dominated languages. To do so, we devised a grid on which some of the important dimensions of language rights can be captured. The first dimension used, and represented in our grid on the vertical axis, is **degree of overtness**, on which one can mark the extent to which laws or covenants are explicit in relation to the rights of minority languages in education. The second dimension, represented on the horizontal axis, is **degree of promotion**, on which the extent to which a language is **prohibited, tolerated or actively promoted** can be plotted (see Figure 1, from Skutnabb-Kangas & Phillipson 1994b, 80). We see both dimensions as continua.

(Figure 1 approximately here)

We have placed on the grid the results of our review of the clauses on **language rights in education** in some international and European conventions and decrees.

**Example A.** THE CHARTER OF THE UNITED NATIONS (1945) commits its member nations in its **general** articles to promoting "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion" (paragraph 6.11, 55). This can be understood as **overt non-discrimination prescription**. It has no specific article on **education** and thus **nothing on language in education**, implying only **covert toleration**.

The **general** articles in all the following covenants (B - I) can also be characterised as **overt non-discrimination prescription**. For instance, the UNIVERSAL DECLARATION OF HUMAN RIGHTS declares in paragraph 2: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

**Example B.** THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (1948) paragraph on **education** (26) has as its main thrust to ensure free universal education. There are references to the "full development of the human personality" and the right of parents to "choose the kind of education that shall be given to their children". But the education paragraph **does not refer to language**. This can be considered **covert toleration**.

**Example C.** The INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, adopted in 1966 and in force since 1976, having mentioned language on a par with race, colour, sex, religion etc in its **general** article (2.2) again omits any reference to language in the **educational** article (13). There is an inconsistency here, because the covenant **does** explicitly refer to "racial, ethnic or religious groups" in the education article, though not "linguistic" ones. This also represents **covert toleration**.

**Example D.** Article 27 of the INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (1966) is

the most important provision for language rights:

"In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language."

This article or a variant of it has been used in several Council of Europe and CSCE documents and in many universal covenants, for instance the UN Conventions on the Rights of the Child (1959 and 1989).

The absence of any overt mention of language in the education clauses of all these covenants (or of education in the language clause, as in Article 27 above) is in contrast to the general clauses on non-discrimination, which relate to the exercise of all human rights. This means that the five UN conventions (A, B, C, D and E) have **general** provisions which are apparently an **overt non-discrimination prescription** (A, B, C) or even **overt permission**, mentioning language specifically (D, E). But the **education** clauses are no stronger than **covert assimilation-oriented toleration**. Minorities are allowed to use their languages in private (or in non-specified settings with other members of the group), but not in schools. The same is also true of European, African and American regional covenants (F,G,H,I).

A major survey was conducted for the UN (Capotorti 1979) to analyse juridical and conceptual aspects of protection against discrimination, and to solicit information from governments worldwide so as to assess how minorities are treated *de jure* and *de facto*. Immigrant minorities were explicitly excluded from consideration. The report concluded that most minorities, not least linguistic ones, were in need of much more substantial protection. It stresses the key role of education through the medium of the mother tongue for linguistic and cultural maintenance and vitality. It also interprets article 27 as imposing a duty on states to actively promote minority languages, as do more recent studies (Thornberry 1991). This presupposes that the state provides adequate financial support for them, but in fact the right to this support has been explicitly denied in several litigation cases (see de Varennes 1995a,b).

Progress towards affirming the rights of minorities in a universal covenant was held up for many years by the reluctance of states to accord recognition to their minorities and by difficulty in reaching agreement on defining a minority (Alston 1992, Eide 1993), but progress towards implementation has been made. The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities was adopted by the General Assembly on 18 December 1992 (the full text is reproduced as one of the appendices in Thornberry 1991 and Skutnabb-Kangas & Phillipson 1994a). The articles reproduced below represent a strengthening of earlier formulations: "shall not be denied" has been replaced by "have the right", the rights are to apply "in private and in public, freely and without any form of discrimination", and states are to actively promote enjoyment of the rights:

"Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination." (Article 2.1; this should be compared with Article 27 above).

"States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national and contrary to international standards." (Article 4.2).

"States should take appropriate measures so that, wherever possible, persons belonging to minorities have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue." (Article 4.3)

Clearly such clauses raise many applied linguistic questions which are important, whether or not states ratify the declaration and seek to follow it. What constitute "appropriate measures" or "adequate opportunities", and who is to decide what is "possible"? Does "instruction in" the mother tongue mean "through the medium of the mother tongue"? It is indicative that it is especially in the language-in-education article that the terminology becomes vague and the opt-out clauses appear.

Moving from the universal to the European level, the most important development of recent years is that the member countries of the Council of Europe have adopted a **European Charter for Regional or Minority Languages**,

which was approved by the Committee of Ministers on 22 June 1992. This is a comprehensive document on the use of language in education, public services, media, cultural, economic and social life (Resolution 192, 1988, followed by CAHLR\DELA91.1, Strasbourg, 24 June 1991; for a description of its genesis, see Woehrling 1992; the entire text is reproduced in the appendix of Skutnabb-Kangas & Phillipson 1994a).

The preamble considers "that the right to use a regional or minority language in private and public life is an inalienable right", stresses "the value of interculturalism and multilingualism" and considers "that the protection and encouragement of regional or minority languages should not be to the detriment of the official languages and the need to learn them" but rather "an important contribution to the building of a Europe based on principles of democracy and cultural diversity within the framework of national sovereignty and territorial integrity."

The Charter represents the fruits of many years of concerted efforts on the part of representatives of indigenous minority languages in Europe and the European Bureau for Lesser Used Languages (which publishes the useful **Contact Bulletin** on minority language issues in European Union countries), supported by some committed members of the European Parliament. There are however considerable limitations to it. Assuming that states ratify it (and this still remains to be seen), each state can specify which minority languages it wishes the rights of the Charter to apply to. The languages of migrants are explicitly excluded. A state can choose from a wide range of paragraphs or subparagraphs (a minimum of 35 is required) which ones it will apply. The formulations include a range of modifiers like "as far as possible", "relevant", "appropriate", "where necessary", "pupils who so wish in a number considered sufficient", "if the number of users of a regional or minority language justifies it", and a number of alternatives as in "to allow, encourage **or** provide teaching in **or** of the regional or minority language at all the appropriate stages of education" (our emphasis). The Charter thus permits a reluctant state to meet the requirements in a minimalist way which it can legitimate by claiming that a provision was not "possible" or "appropriate", numbers were not "sufficient" or did not "justify" a provision, and that it "allowed" the minority to organise teaching of their language at their own cost.

On the other hand, one should not underestimate the value of the Charter in promoting awareness of good practice in minority education and in propagating models of successful cultural and linguistic autonomy. Here Europe can both learn from experience elsewhere and contribute to disseminating knowledge about how multilingual societies can respect the linguistic ecology and diversity in their midst. In attempting to influence policy makers, applied linguists can contribute substantially by synthesizing the results of a range of types of successful bilingual and multilingual education programmes, and identifying factors that promote or constrain the implementation of LHRs (see Baetens Beardsmore 1993 for a range of models in publicly funded education in various western European countries, and Skutnabb-Kangas 1995 for studies of how the multilingual "European" schools relate to models of bilingual education in California, Australia, Canada, Catalonia, Estonia, Russia and India).

We have also plotted onto the grid a range of national constitutions: the former **Yugoslavia** (number 3 on the grid); **Finland**, for both the **Swedish** (4) and the **Sámi** (5) languages; **India** (6); **Turkey** (9); and proposals for constitutional change: **English Language Amendments** to the **USA** Constitution (Huddleston, 1, Hayakawa, 2; see Marshall 1986, 36); **The Freedom Charter of the African National Congress (ANC) and others, South Africa** (7); the **Basque Normalization Law** (8).

As the position of numbers 4 and 5 on the grid indicates, the Sámi language (spoken by people earlier called "Lapps" by the dominant group) has a history of oppression, which has in fact in many cases led to language shift. It has fewer rights in Finland than Swedish has. However, increasing sensitivity to the rights of indigenous peoples is leading to change throughout Scandinavia. The passing in Norway of a series of Sámi Language Acts in 1990 has, to quote the words of the president of the Sámi parliament on the Norwegian side of Sámi land, Professor Ole Henrik Magga, "radically changed the principles underlying Norwegian policy towards the Sámi people. In addition, Norway has adopted a broad interpretation of international standards for the protection of minorities. Thus article 27 of the International Covenant on Civil and Political Rights is understood as imposing an obligation to discriminate positively in favour of the Sámi minority. This means that the authorities shall not merely legislate against the discrimination of Sámi language and culture. The state shall take positive steps to make it possible for the Sámi people to survive as a people. The Ministry of Justice declared this explicitly in 1987" (Magga 1994, 220).

The law guarantees to citizens certain rights to education, justice and service in Sámi, and imposes corresponding obligations on public bodies, including the courts and the police, to communicate in Sámi both orally and in writing

and to provide information to the Sámi population in Sámi.

Although Sámi is not an official language in Norway, whereas Māori is in New Zealand, it is now in theory equal with Norwegian, though the regulations clearly do not ensure full equality. The limitations of territorial application (as in many language laws, see Nelde, Labrie & Williams 1992, Grin 1994) are the strongest restriction. The Sámi do not have the same rights everywhere in the country. There are merely a few general rules which are supposed to apply throughout the country. In most cases, the rights are restricted to a few counties, to the "Sámi district", an administrative area where the full range of rights apply. But even within this area, local authorities have wide discretion in how they should enforce the law. Among the problems of implementation are the fact that little work on language cultivation and terminology has been done, and few people are good at written Sámi. The education system thus far has had too little time and too few resources to meet the many challenges.

On the other hand many Sámi see the new laws as a big step forward. They will promote the use of Sámi in public administration and can be expected to have a really significant effect on the development of the Sámi language. "Extending the range of use of the language will decisively improve the status of Sámi. Users of Sámi will no longer have to define themselves as second class citizens." (Magga 1994, 232).

As the grid shows, there is a wide variation in how national and international regulations can be placed. Many national constitutions do, however, provide more protection to minority languages in education than the international covenants specify. Conversely, none of the international covenants overtly prohibits the use of minority languages, as some national constitutions do.

## THE IMPORTANCE OF LHRs

Language is one of several factors that contribute to ethnic identity. When we affirm categorically that **all** individuals and groups should enjoy universal LHRs, this claim needs to be seen in the light of the political reality of unequal access to power. Most linguistic majorities seem reluctant to grant "their" minorities rights, especially linguistic and cultural rights, because they would rather see their minorities assimilated (see Grin 1994 on the "tolerability" of the majority group). But this antagonism towards linguistic minorities is based on false premises, and in particular on two myths (Phillipson, Rannut & Skutnabb-Kangas 1994, 4-6). The first myth is that monolingualism is desirable for economic growth. In fact the relationship between multilingualism and poverty is **not** a causal one, as Joshua Fishman has shown in a thorough study of some 120 states (1989). Besides, monolingualism in a multilingual state is uneconomical and violates LHRs (see e.g. Pattanayak 1988).

The second myth is that minority rights are a threat to the nation state. In fact, according to Alfredsson, of the UN Center for Human Rights in Geneva, (1991, 39) "internal suppression of minority issues does not work; assimilation has been attempted and it inevitably fails. Minorities do not simply disappear; they may appear dormant for a while, but history tells us that they stay on the map. Nationalism and the drive to preserve identities are strong forces and they apply in equal measure to nation-states and to minorities... National experience teaches us that the recognition of and respect for special minority rights are viable alternatives to oppression and neglect".

Some states have accepted the validity of demands for LHRs from (some) ethnic minority groups, mostly in cases where this step is not regarded as posing a threat to the integrity of the state (small groups, non-territorial groups, groups which have not voiced secessionist demands, such as the Māori in New Zealand and the Sámi) or where NOT granting rights might lead to secession (e.g. rights to French in Canada).

"Interethnic cooperation and solidarity" between groups with different languages, "peaceful coexistence", is "at least as common and persistent as interethnic conflicts", according to Rodolfo Stavenhagen, who has conducted a major survey of ethnic relations for the UN (1990: 39). But when conflict occurs, language is often one of several factors separating the parties. In other conflicts, the parties share a language but differ on other counts. Bosnians shared a language with Serbs and Croats, but this did not prevent war. Thus there is no necessary correlation between conflict and differences of language/ethnicity, and when there is a correlation between conflict and language/ethnicity, it is not necessarily causal. Differences of language cannot in most contexts be said to "cause" war or inter-ethnic conflict. "If and when ethnic hostility or rivalry occurs, there is generally a specific historical reason for it that relates to political struggles over resources and power" is Stavenhagen's assessment (1990: 39). However, even if



... the economic factor is seldom absent in ethnic conflict, it does not usually constitute any kind of triggering factor. Existential problems in a deeper sense are involved. The hatred that an ethnic group can develop against another group probably has less to do with competition per se and more with the risk of having to give up something of oneself, one's identity, in the struggle... It is therefore more a question of survival in a cultural rather than a material sense ... The horror of ethnocide is a more basic impulse than the struggle to reap economic benefits at the expense of another group ... (ibid.)

Hettne writes in similar vein, in a study of conflicts which are misleadingly labelled "ethnic" "... the problem is not that ethnic groups are different, but rather the problem arises when they are no longer allowed to be different, i.e. when they subjectively experience a threat to their own identity, a risk of ethnocide. This is a fundamental cause behind the politicising of ethnic identity" (Hettne 1987: 67).

Without wishing to endorse a crudely primordialist/essentialist view of language, and while recognizing that the concept "language" itself is fuzzy, and that linguistic identity interacts and co-articulates with many other factors, particularly those of class and gender, we would risk the generalization that **lack** of linguistic rights is one of the causal factors in certain conflicts, and linguistic affiliation is a rightful mobilizing factor in conflicts with multiple causes where power and resources are unevenly distributed along linguistic and ethnic lines.

Language is for most ethnic groups one of the most important cultural core values (Smolicz 1979). A threat to an ethnic group's language is thus a threat to the cultural and linguistic survival of the group. Lack of linguistic rights often prevents a group from achieving educational, economic and political equity with other groups. Injustice caused by failure to respect linguistic human rights is thus one of the important factors which can contribute to inter-ethnic conflict, and often does.

This means that we see language-related issues as potential causes of conflict **only** in situations where groups lack linguistic rights **and/or** political and economic rights, and where the unequal distribution of political and/or economic power follows linguistic and ethnic lines. Granting linguistic rights to minorities therefore reduces conflict potential, rather than creating it.

In most countries, biologically argued **racism** is in the process of being replaced by more sophisticated forms of racism, **ethnicism** (Mullard 1988) and **linguicism** (Skutnabb-Kangas 1988). These use the ethnicities, cultures and languages of different groups as defining criteria and as the basis for hierarchization. It is no longer being claimed (at least not openly - except in populist right wing anti-immigrant discourse) that certain "races" are fitter to rule than others. Now it is certain ethnic groups, cultures and languages which are claimed to be fitter to rule, expand, and be emulated by others. In a new social darwinist dress, the argument is that the ethnoses, cultures and languages which are to survive and expand will do so because they are more adapted to a (post-)modern technological information society, to market economies and democratic forms of government, more developed or useful, or have more potential than others. The hegemony of the dominant group then ensures that the other ethnoses, cultures and languages are deprived of resources and a fair chance to survive. Central in this process are institutionally controllable measures such as education, as controversies around "national" curricula in Great Britain, and bilingual education and "cultural literacy" in the United States demonstrate. Somehow it always turns out to be majority languages and cultures in their standardised middle class forms which are the fittest survivors. This empirical fact tends then to be used as proof of their being the fittest.

Racism, ethnicism and linguicism are here defined as "ideologies, structures and practices which are used to legitimate, effectuate and reproduce an unequal division of power and resources (both material and non-material) between groups which are defined on the basis of 'race', ethnicity/culture, or language" (Skutnabb-Kangas 1988).

It is important to note that we define racism, ethnicism and linguicism as both ideological and structural (cf. Miles 1989). Racism is **not** just a question of people being ill-willed, ignorant or misinformed. Ethnicism is **not only** people's attitudes or prejudices towards other individuals or groups. Linguicism is **not only** an information problem (that all languages are of equal worth, and if this is understood and respected, problems of discrimination will disappear or at least diminish). In addition to the ideological dimension, racism, ethnicism and linguicism all involve structures and practices which result in unequal access to power and resources. Thus even well-intentioned administrators, bureaucrats and "experts" can, unintentionally, reinforce linguicist structures - and contribute to

linguistic "wrongs" and injustice.

Ethnicism and linguicism socially construct the resources of powerless groups so that they through being stigmatized are made invisible or are seen as handicaps. In this way non-material minority resources, among them their languages and cultures, become non-resources, hence cannot be converted to other resources or to positions of structural power. At the same time the resources of the dominant groups, among them their languages and cultures, are socially constructed through glorification so that they are seen as resources and can thus be converted into other resources or to positions of structural power. At a group level, nations which have their own state obviously have more structural power than non-state nations. Labelling a language a "dialect", "vernacular" or "patois" has been used to exclude powerless nations' demands for self-determination, by claiming that they do not possess one of the prerequisites for nationhood, a fully developed language. Thus non-state nations or peoples are socially constructed as handicapped, and as invisible non-actors on the international scene (see Skutnabb-Kangas in press, forthcoming, for elaborations).

Linguicism is a major factor in determining whether speakers of particular languages are allowed to enjoy their linguistic human rights. Lack of these rights, for instance their absence from school time-tables or teacher training programmes, makes minority languages invisible. When minority languages are seen as handicaps which prevent minority children from acquiring the valued resource (the majority language), it is often argued that minority children should get rid of them in their own interest. At the same time, many minorities, especially children, are in fact prevented from fully acquiring majority resources, especially the majority languages, by disabling educational structures, when their instruction is organised through the medium of the majority languages in ways which contradict most scientific evidence (see Skutnabb-Kangas 1984, 1990, 1994, Skutnabb-Kangas & Cummins 1988).

Schools and day-care centres in European and Europeanised countries can be accused not merely of failing to respect the linguistic human rights of minority children but of actually committing linguistic genocide in the sense of a UN definition:

**"(1) Prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group."**

This was still included in Article III in the final draft of what became the CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE (E 794, 1948) of the United Nations. When it came to the final vote in the General Assembly, though, Article III was not approved (see Capotorti 1979, Thornberry 1991), and it is thus not part of the final Convention.

Schools may well be directly or indirectly "prohibiting the use of the language of the group in daily intercourse or in schools". If there are no minority teachers in preschools or schools or if the minority language is not used as a medium of education, the use of the language is indirectly prohibited in daily intercourse and in schools, meaning that there is *de facto* a policy of linguistic genocide. Whether policy makers or the educators involved are aware of this is quite another matter. Ethnicist and linguicist practices form part of the dominant social order, and like other hegemonic practices, may not be simple to diagnose, understand or contest.

## **DECLARATIONS AND PROFESSIONAL COMMITMENT**

We would not wish to give the impression that inter-governmental documents which formulate desirable principles as human rights are a panacea, far from it. There are invariably many hazardous steps between promulgation, ratification and implementation, and many governments may have no wish to promote human rights. The two axioms that we mentioned initially, one proclaiming absolute standards, the other relating to the reality of political struggle and conflict, may be difficult to reconcile fruitfully.

Of the many implementation problems, one thorny issue is the problem that many minority groups, not least immigrant minorities, are frustrated in their quest for recognition as a minority to whom certain rights should apply (see e.g. Capotorti's (1979) and Andryšek's (1989) discussions on how to define a minority). There are comparable problems in deciding what groups are "indigenous", even if current definitions, including those issued by the ILO

and the World Bank, insist that indigenous peoples can and must decide identity questions for themselves (Fourth World Bulletin 1994, 1, which cites a study revealing that forty-five different definitions of "Indian" are employed by the US government). We would not wish to underestimate these political difficulties. On the other hand constructive efforts to promote LHRs are under way at many levels of many education systems and in many policy fora. This development runs parallel with efforts in many scholarly associations to codify codes of ethical conduct in professional activities (see, for instance, the thematic issue of the journal "Issues in applied linguistics", vol. 4, no. 2, 1993).

It is also self-evident that even if a "universal" principle is used as a yardstick, implementation must be sensitive to local cultural norms, meaning that there may be an ambivalent tension between these and normative human rights. In complex societies characterized by grassroots multilingualism, such as much of Africa and Asia, western definitions of linguistic identity and speech community may be in part inappropriate (and indeed how appropriate they are even in the west is debatable, as is manifest from fundamental differences between theorists of grammar, communicative competence, the archaeology of knowledge, discursive practices etc), based as they are on a belief that each language is a monolith, a crystallised whole, with certain privileged "native speakers". Language rights in complex multilingual societies need to be administered in ways which respect fluid linguistic identities and multiple cultural goals (Khubchandani 1994). In sub-Saharan Africa, Djité sees a cleavage between on the one hand the pathological linguistic backwardness imposed by dependence on western languages, and on the other the reality of the vitality of lingua francas both in inter-ethnic communication and in forging national identity. He pleads that "arguing for literacy in all minority languages and underestimating the linguistic complexity and financial burden of such an undertaking are as unrealistic as the advocacy of the continued use of international languages" (1993, 162). Clearly change is needed, if such societies are to become more just and humane, and there remains a major task in the cross-cultural analysis of linguistic rights and their realization in a range of contexts.

The UN Draft Universal Declaration on Rights of Indigenous Peoples (1991, see extracts in the appendix of Skutnabb-Kangas & Phillipson 1994a) formulates language rights strongly, explicitly as a collective right, and with the state required to allocate resources. This declaration will now figure prominently in the struggle of indigenous peoples for recognition as peoples and for implementation.

In a review of the contribution of several disciplines (geolinguistics, politics, applied linguistics) to the analysis of language rights, and of the experience of implementing language laws in Belgium and Canada, Nelde, Labrie and Williams (1992) plead for a more multi-disciplinary approach, and offer a restricted set of principles for neutralizing conflicts. They relate to selective use of a territorial principle, sensitivity to the context, and positive discrimination in favour of speakers of minority languages. These principles accord fully with the principles underlying the first drafts of a Universal Declaration of Linguistic Human Rights, which UNESCO, AILA and FIPLV have been involved in. The initial steps are still at the stage of clarifying concepts and matters of fundamental principle and scope. It is important, for instance, for the rights of the Deaf Community and users of sign language to be covered.

What such a declaration (and later a convention) should guarantee, in our view, is that

A) everybody can

1. identify with their mother tongue(s) and have this identification accepted and respected by others;
2. learn the mother tongue(s) fully, orally and in writing (which presupposes that minorities are educated through the medium of their mother tongue(s));
3. use the mother tongue in most official situations (including schools).

B) everybody whose mother tongue is not an official language in the country where s/he is resident, can become bilingual (or trilingual, if s/he has 2 mother tongues) in the mother tongue(s) and (one of) the official language(s) (according to her own choice).

C) any change of mother tongue is voluntary, not imposed.

It is a challenge for applied linguistics to provide constructive models for the appropriate learning of first, second and foreign languages, as a contribution to the peaceful diminution of social injustice and to the promotion of LHRs.

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